

1981

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Dried Sultana Production
Underwriting Bill 1981

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary Industry,
the Hon Peter Nixon, M.P.)

OUTLINE

The Bill provides for a scheme of assistance to producers of dried sultanas by underwriting the level of returns received by packing houses from sales of packed dried sultanas for the five seasons 1982 to 1986 inclusive.

The mechanics of the scheme are as follows:

- . the Minister determines for each season a guaranteed minimum return rate per tonne of packed sultanas
- . this guaranteed minimum return rate is derived by:
 - averaging the following:
 - .. the average return rates for the two preceding seasons
 - .. the estimated average return rate for the current season (i.e. the season for which the guaranteed minimum return rate is being set)
 - reducing that average by 10% for seasons 1982, 1983, 1984; and by 5% for seasons 1985 and 1986
- . in due course the Minister then determines from sales of packed sultanas an actual average return rate for the season
- . if that actual average return rate is less than the guaranteed minimum return rate then an underwriting payment at a rate equal to the difference is payable to producers.

EXPLANATION

NO OF CLAUSE

1. Citation.
2. The Act will come into operation on Royal Assent.
3. provides definitions of, inter alia, the major concepts (e.g. net proceeds, published average return rate, published guaranteed minimum return rate, underwriting payment) on which the scheme is based.
- 4.(1) identifies the seasons for which an average return rate is to be calculated.
- 4.(2) provides that the Minister must make the determination of the average return rate for a season as soon as he considers it appropriate after the end of the season having regard to the volume of packed dried sultana sales that have occurred.
- 4.(3) provides that the determination made by the Minister of the average return rate shall be published in the Gazette.
- 5.(1) This sets out the method of determining the average return for a season. The Minister is to ascertain the net proceeds received from the sales of packed dried sultanas and divide that by the number of tonnes of such sultanas that are the subject of those sales.
- 5.(2) permits the Minister in making his determination of average return for a season to rely on the sales from a representative sample of packing houses instead of all packing houses.
6. As well as determining average return for a season the Minister is also to determine what has been termed the "reduction factor". Under the scheme an underwriting payment is calculated by reference to a rate per tonne of packed fruit. However, the producer to whom it is payable has delivered the fruit in an unprocessed and unpacked form to the packing house where it is bulked with the fruit of other producers and its identity lost in the course

of the packing process. The packing process also results in packed fruit something less in weight than the weight of the unprocessed fruit from which it is derived. In order that the producer can receive an underwriting payment for his delivered fruit it is therefore necessary to apply a factor to the rate per packed tonne to convert it to an unprocessed weight equivalent. This "reduction factor" for a season is to be determined by the Minister at the same time as he determines the average return for the season. The factor is in effect the season's packed weight tonnage divided by the season's tonnage of unprocessed fruit receipts. The determination when made is to be published in the Gazette.

- 7.(1) requires the Minister to determine at an appropriate time a guaranteed minimum return rate for a season.
- 7.(2) provides that that guaranteed minimum return is to be the average of the average returns of the two preceding seasons and an estimated average return for the current season; the figure to be reduced by 10% for seasons 1982, 1983 and 1984, and by 5% for seasons 1985 and 1986.
- 7.(3) sets out how the Minister is to make his estimations of the average return for the current season, viz; by estimating the total tonnage of packed sultanas of the season that will be sold, estimating the net proceeds that will be received from those sales and dividing those proceeds by the tonnage estimate.
- 7.(4) provides that in his estimations the Minister shall have regard to advice and information furnished by the Australian Dried Fruits Corporation (ADFC) and the Bureau of Agricultural Economics (BAE).
- 7.(5) provides elaboration of the phrase "appropriate time in relation to each prescribed season" appearing in sub-clause 7.(1).
- 7.(6) provides that the Minister's determination of a guaranteed minimum return rate is to be published in the Gazette.

8. provides that when the published average return rate is less than the published guaranteed minimum return rate for a season then that season is an "underwriting season".
- 9.(1) provides that in an underwriting season an underwriting payment is payable to the producers of dried sultanas that were received into packing houses during the season.
- 9.(2) establishes the rate of that underwriting payment as the difference between the published guaranteed minimum return rate and the published average return rate.
- 9.(3) establishes the amount of an underwriting payment as the product of number of tonnes of dried sultanas involved, the rate per tonne of the underwriting payment, and the "reduction factor" (see explanation of Clause 6).
10. provides that an assignment of an underwriting payment is void against the Commonwealth.
- 11.(1) provides for the payment of an advance against an underwriting payment on such terms and conditions as the Minister approves.
- 11.(2) provides for the recovery of the excess should a person receive by way of advances more than the amount of the underwriting payment payable.
- 12.(1) provides that Minister may, on behalf of the Commonwealth, enter into an arrangement with the ADFC for the latter to make underwriting payments.
- 12 (2) provides that the arrangement referred to above may cover such matters as the keeping of accounts and records, inspection and audit, and the furnishing of information to the Minister.
- 12.(3) authorises the payment to the Corporation of underwriting payments for distribution in accordance with the arrangement.
- 12.(4) excludes the application of the Audit Act to underwriting payments in the hands of the Corporation.

- 12 (5) provides that moneys in the hands of the Corporation are moneys held in trust for the Commonwealth until distributed in accordance with the arrangement
- 13.(1) provides that the Commonwealth or the Corporation may arrange with a packer to make, as agent, payments of underwriting payments to producers.
- 13.(2) excludes the application of the Audit Act to underwriting payments in the hands of a packer
- 13.(3) provides that moneys in a packer's hands are, until distributed in accordance with the arrangement, moneys held in trust for the Commonwealth.
- 13.(4) permits a packer to whom a producer is indebted for loans, advances, or costs of packing to apply the underwriting payments towards the discharge of that indebtedness where the producer has authorised him to do so.
14. makes the necessary appropriation from the Consolidated Revenue Fund.
15. Since the price at which packed dried fruit is ultimately sold will determine the relationship between the average return rate and the guaranteed minimum return rate and consequently the likelihood or otherwise of underwriting payments becoming payable, the Minister is given a power of direction over the ADFC when the body is exercising powers to establish minimum export prices.
- 16.(1) provides for an authorized person to require information in relation to matters relevant to the operation of the Act.
- 16.(2) requires a person to furnish information sought by an authorized person.
- 16.(3) provides that a person is not excused from supplying information on the ground that the information supplied might incriminate him but also provides that such information is not admissible in evidence against him in proceedings other than proceedings for an offence that the information is false or misleading

- 16.(4) establishes the offence of supplying false or misleading information - penalty \$1,000.
- 17.(1) provides that a person who receives an underwriting payment knowing that it is not payable to him must inform the Corporation or the Department as the case may be. Penalty for breach \$2,000 or 12 months imprisonment.
- 17.(2) provides that a Court may, as well as imposing the above penalty for an offence under 17(1), require the person to repay the amount received.
- 17 (3) provides that in that case the Court order when filed in a court having civil jurisdiction to the extent of that amount is thereupon enforceable as a final judgement of the Court in which the order has been filed.
18. provides that any over payment of an underwriting payment may be recovered as a debt due and payable to the Commonwealth in a court of competent jurisdiction.
- 19 (1) requires packers to maintain proper books and accounts for operations relevant to the Act, retain them for 3 years, and produce them on demand by an authorized person - penalty \$1,000.
- 19.(2) sets the time for prosecution of any offence under the Section at 3 years from the end of the relevant prescribed season.
- 20.(1) provides for access to premises by an authorized person with the consent of the occupier.
- 20.(2) provides for an authorized person to apply for a warrant from a Justice of the Peace to enter premises if he has reasonable grounds for believing certain matters.
- 20.(3) provides for the issue by a Justice of the Peace of a warrant to enter premises if he is satisfied that the grounds for such issue exist.
- 20.(4) provides that the warrant shall specify a date after which it ceases to have effect.

- 20 (5) authorizes the authorized person to exercise his functions after having entered premises.
- 20.(6) establishes those functions as "to search for, inspect, take extracts from and make copies of books, documents or papers referred to in sub-section (2)".
- 20.(7) defines "occupier" for the purposes of the Section
- 21. obliges the Corporation to furnish the Minister with necessary information.
- 22. empowers the Minister to appoint authorized persons.
- 23. Power to make regulations.